

EXHIBIT 5

Case No. 14-CV-704-GKF-JFJ

Candy Creek
Crusher
COPY



CONTRACT NO: G06 - 23056

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

LIMESTONE/DOLOMITE LEASE

THIS AGREEMENT, made and entered into this 18th day of September, 2013, by and between the Osage Nation, party of the first part, hereinafter called Lessor, whose address is P.O. Box 1539, Pawhuska, Oklahoma 74056 and Candy Creek Crusher, LLC, whose address is 201 S. Hominy, Skiatook, OK 74070, party of the second part, hereinafter called Lessee.

1. In consideration of the sum of \$100 Dollars paid to BUREAU OF INDIAN AFFAIRS, the receipt of which is hereby acknowledged, and the covenants, stipulations, and conditions hereinafter contained, it is agreed:

- (a) Lessor hereby grants the Lessee, subject to limitations hereinafter stated, an exclusive right for a period ending DEC 9 2019, to mine LIMESTONE/DOLOMITE from the following described lands of Lessor, subject to valid existing rights, consisting of ninety 90 acres, more or less, to wit:

SE/4 of Section 32, Township 24 North, Range 12 East, containing 90 acres, more or less, Osage County, Oklahoma, more particularly described in Exhibit A, attached hereto.

2. In consideration of the foregoing, the Lessee hereby agrees:

- (a) **ROYALTY** - - To pay, or cause to be paid to the Superintendent for the use and benefit of the Lessor, the sum of \$.51 per TON for all limestone/dolomite removed from the premises, with an escalation rate of \$0.01 per ton per year from the date of the resolution, and;
 - (b) **MINIMUM ROYALTY** - - To pay, or cause to be paid, to the Superintendent for the use and benefit of the Lessor, in advance, beginning with the date of approval of the lease, as annual minimum royalty, the sum of ONE HUNDRED Dollars (\$100); it being understood and agreed that said sum so paid shall be a credit on the royalties accruing during the year for which the payment of annual minimum royalty is made, and that said annual minimum royalty when paid shall not be refunded to the Lessee because of any subsequent surrender or cancellation hereof.
 - (c) **ACCOUNTS** - - To keep an accurate account of all mining operations, showing the sales, prices, dates, purchasers, and the whole amount of limestone/dolomite mined, the amount removed and the gross receipts derived there from, and to furnish the Superintendent sworn monthly reports thereon not later than the 25th of the succeeding month; Lessee's accounts to be at all times available and open to inspection by any duly authorized officer or agent of the Secretary of the Interior during the entire term of this lease, and for 6 months thereafter.

EXHIBIT

- COPY
- (d) **PAYMENT** - - That as soon as the amounts due for limestone/dolomite mined hereunder, calculated at the rate of \$.51 per TON, shall exceed the minimum royalty payment provided in section 2 (b) herein, each of the monthly statements called for in the preceding section shall be accompanied by a check or bank draft on a solvent bank payable to the Bureau of Indian Affairs for the amount due for limestone/dolomite mined.
3. **DISPOSITION OF MINERALS AND SURFACE** - - The Lessee expressly reserves the right to use, lease, sell, or otherwise dispose of the minerals not covered by this lease and the surface of the lands embraced within this lease under existing laws or laws hereafter enacted. If non-exclusive right is granted to the Lessee, the Lessor reserves the right to grant additional leases to remove limestone/dolomite from the lands described herein. Such disposition and use shall be subject at all times to the prior right of the Lessee herein to the use of so much of said surface as is necessary in the extraction and removal of limestone/dolomite from the lands herein described in accordance with this lease;
 4. **DILIGENCE** - - The Lessee shall exercise diligence in the conduct of mining operations and land described herein, shall not be held by the Lessee for speculative purposes, but in good faith for mining the minerals specified and shall begin operations within SIX months and shall continue production thereafter. Failure by the Lessee in diligent development and continued operations, except when operations may be interrupted by strikes, the elements, or casualties not attributable to the Lessee, shall be held as a want of compliance with the purposes of this lease and shall render it subject to cancellation: **PROVIDED**, That whenever the Secretary or his authorized representative shall consider the marketing facilities inadequate or the economic conditions unsatisfactory, he may authorize the suspension of operations for such time as he may deem advisable, but such action will not release the Lessee from the payment of the advance annual minimum royalty. The payment of said sum does not relieve the Lessee of the responsibility of diligent development and continued operation;
 5. **ENVIRONMENTAL AND ARCHAEOLOGICAL REVIEWS** - - The Lessee shall abide by all environmental and archaeological regulations currently promulgated by the State of Oklahoma and the United States of America. Lessee will not commence any disturbance of the land in any way until authorized by the Bureau of Indian Affairs in Pawhuska, Oklahoma. Such authority may be granted upon a completed review of the area by jurisdictional agencies, which may include, but not be limited to, the State Historical Preservation Office, the Oklahoma Archaeological Survey, the Bureau of Indian Affairs and the United Corps of Engineers.
 6. **PREVENTION OF DAMAGE** - - The Lessee shall conduct all operations authorized in this lease with due regard to preventing unnecessary damages to vegetation, timber, soil roads, bridges, cattle-guards, fences, and other improvements, and on termination of operations under this lease, shall make provisions for conservation and protection of the property and leave all of the areas on which the Lessee has worked in a condition that will not be hazardous to life or limb, and will be to the satisfaction of the Superintendent. All damages shall be repaired or paid for at appraised value;
 7. **ASSIGNMENT** - - The Lessee agrees not to assign the Lease or any interest therein by an operating agreement or otherwise, nor to sublet any portion of the leased premises, except with the approval of the Secretary of the Interior or his authorized representative.
 8. **REGULATIONS** - - The Lessee agrees to abide by and conform to any and all regulations of the Secretary of the Interior now or hereafter in force relative to such leases: **PROVIDED**, that no regulation hereafter approved shall effect a change in the rate of royalty without the written consent of the parties to this lease.

COPY

9. **INSPECTION** - - The Lessee agrees that the leased premises and producing operations, improvements, machinery and fixtures thereon and connected therewith shall be open at all times for inspection by any duly authorized officer or agent of the Secretary of the Interior.
10. **SURRENDER AND TERMINATION** - - The Lessee may, at any time during the time hereof, surrender this lease in writing upon the performance of all the Lessee's obligations hereunder, and upon a showing satisfactory to the Secretary of the Interior or his authorized representative, that full provision has been made for the conservation and protection of the property. If this lease has been recorded, Lessee shall file a recorded release with its application for surrender.
11. **BOND** - - Before this lease shall become effective, Lessee shall furnish to the Superintendent of the Osage Agency, Pawhuska, an acceptable surety bond in the amount of FIVE THOUSAND DOLLARS (\$5,000).
12. **CANCELLATION AND FORFEITURE** - - When, in the opinion of the Secretary of the Interior or his authorized representative, there has been a violation of any of the terms and conditions of this lease, or the applicable regulations, the Secretary or his authorized representative shall have the right at any time after 30 days' notice to the Lessee specifying the violations, and after a hearing if the Lessee shall so request within 30 days of receipt of notice, to declare this lease null and void.

IN WITNESS WHEREOF, the said parties have hereunto subscribed their names and affixed their seals on the day and year above mentioned.

MANAGING MEMBER
LESSEE CANDY CREEK CRUSHER, L.L.C.

Acknowledgment of Individual/Corporation:

STATE of OKLAHOMA County of Osage, ss.
Before me a Notary Public, in and for said County and State, on this 22nd day of August, 2014 personally appeared Timothy D. Pierce, to me known to be the identical person who executed the within and foregoing lease, and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.

Mandy L. Ray
Notary Public
10-15-2014
My commission expires:



Everett Walter
CHAIRPERSON, OSAGE MINERALS COUNCIL

ACKNOWLEDGMENT OF CHAIRPERSON

STATE OF OKLAHOMA, COUNTY OF OSAGE ss:
Before me a Notary Public, on this 2nd day of December, 2014 personally appeared Everett Walter to me known to be the identical person who executed the within and foregoing lease, and acknowledged to me that he/she executed the same as his/her voluntary act and deed on behalf of the Osage Nation and in accordance with the authority given him by the Osage Minerals Council.

Charity Damron
Notary Public #11006713
7/25/2015
My commission expires:

UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS
OSAGE AGENCY, P.O. BOX 1539, PAWHUSKA, OK 74056

Under the authority delegated by 209 DM 8, 230 DM 1, 3 IAM 4.1 and Muskogee Area Addendum 9901 to 3 IAM 4 issued June 22, 1999.

John D. Kelly
SUPERINTENDENT

APPROVAL DATE

Lease Stipulations- Addendum to Contract No. 06-23056**Limestone/Dolomite Lease for Candy Creek Crusher, LLC****Section 32, Township 24 North, Range 12 East, Osage County, Oklahoma**

The term "Lessees" as used herein refers to and includes the Lessees, their agents, partners, contractors and operators. Lessees agree to comply with the following lease stipulations, which shall be considered binding terms of the lease. Failure to comply with these lease stipulations may subject the lessee to cancellation of the lease and/or other regulatory enforcement actions by BIA or other applicable federal, state or tribal agencies:

1. Lessees agree not to perform blasting or other ground disturbing activities within a 50-foot radius of existing well bores. However, in the event that the Lessees must perform operations that require disturbance or blasting inside of the 50-foot buffer of an existing well bore, all operations will stop within the buffer and will not proceed until correspondence from the Osage Agency, Bureau of Indian Affairs office has been received and a determination on how to proceed is made by the Superintendent. If it is determined that the proposed construction activity inside of the 50-foot buffer may negatively impact the integrity of the existing well bore, or is likely to result in an increased risk of groundwater contamination or public health and safety concern, then the Lessees will submit a plugging permit and work with the Osage Agency as to plugging the well. This same process will be applied to any unknown wells that may also be discovered during quarry operations. (See page 5 of the Environmental Assessment, Section 3.2 Water Resources)
2. The Lessees will be responsible for evaluating the presence of possible American burying beetle (ABB) habitat twice per year in the active season (once before July 28th and once after). This habitat evaluation will be based on the U.S. Fish and Wildlife Service (USFWS) suitable habitat criteria. If habitat exists, then the Lessees will be responsible for conducting presence/absence surveys in accordance with USFWS protocols. If an ABB is found during these surveys, then the Lessees will immediately cease all operations and contact the USFWS and the Osage Agency. Operations will not resume until the proper permit requirements are met and concurrence is received from both the BIA and the USFWS. However, if ABB habitat is determined to be non-existent, the Lessees may proceed with normal operations. All habitat suitability evaluations and presence/absence survey results must be submitted to the Osage Agency promptly after completion. (See page 12 of the Environmental Assessment, Section 3.4e Preferred Alternative, Mitigation Measures),

Agreed to and Accepted By Lessees:

Printed

TIM PINNEY

Signature

[Signature]

Representative for Candy Creek Crusher, LLC

Date

11-18-14

NOV 2014
Received
Branch of
Minerals

Exhibit A

COPY

September 18, 2014

Robin Phillips
Superintendent
Osage Nation B.I.A.
P.O. Box 1539
Pawhuska, OK 74056

RE: Candy Creek Crusher, L.L.C. Limestone Mining Permit
approved by Osage Mineral Council on September 17, 2014



Dear Ms. Phillips,

This letter is in response to your request to describe the 90 acres contained within the 160 acres approved for limestone mining by the Osage Mineral Council on September 17, 2014.

Description of 90 Acres:

Beginning at the SW corner of the SE/4 of Section 32, T-24-N, R-12-E, thence North a distance of 2310 feet, thence east 330 feet, thence north a distance of 330 feet to a point on the north line of the SE/4, thence east a distance of 1630 feet, thence south a distance of 650 feet, thence south westerly a distance of 900 feet, thence south 50° west a distance of 900 feet, thence southwesterly a distance of 200 feet, thence southeasterly a distance of 400 feet, thence east a distance of 700 feet, thence south a distance of 150 feet to a point on the south line of the SE/4 of Section 32, thence west along the south line a distance of 1650 feet to the Point of Beginning, containing 90 acres more or less. As shown on the topographical map as Attachment "A" and attached hereto.

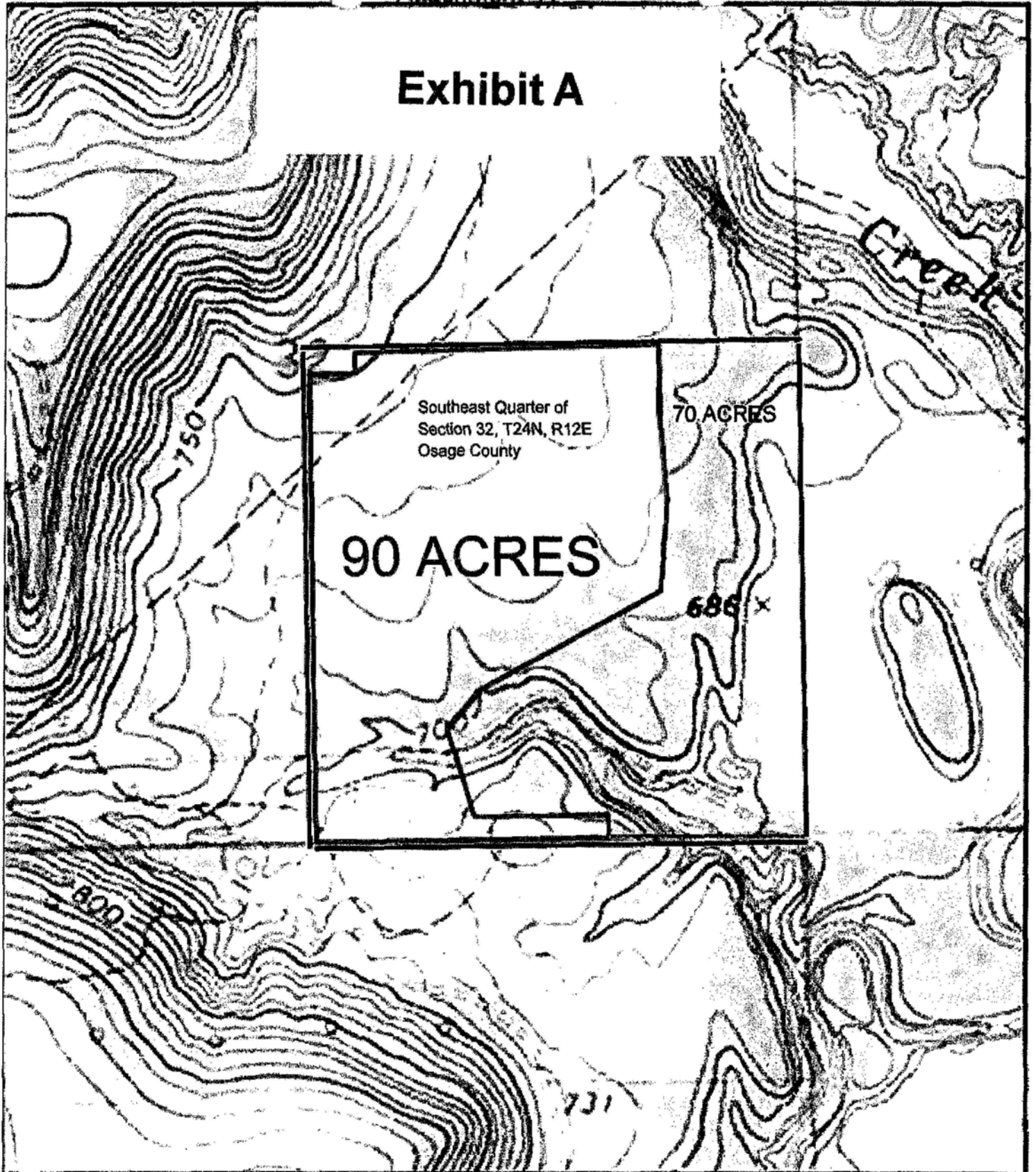
NOTE: All bearings are assumed and distances are approximate.

Sincerely,

Candy Creek Crusher, L.L.C.

Attachment "A"

Exhibit A



0 640 1,280 Feet

□ = PROJECT AREA

USA TOPOGRAPHIC MAPS
OSAGE COUNTY, OKLAHOMA

BLACKSHARE
ENVIRONMENTAL SOLUTIONS

TOPOGRAPHIC MAP
PROJECT BOUNDARY MAP
CANDY CREEK CRUSHER, LLC
OSAGE COUNTY, OKLAHOMA

PROJECT: 2924-13 DATE: 08-08-14 BY: ALH